

PLAINTIFFS' EXHIBIT 7

1 you ever make that phone call?

2 MR. BROWN: Object to the form.

3 THE WITNESS: No. At the same time I
4 didn't make the phone call, you know, asking why we
5 were doing it or what that was for. So no.

6 BY MR. O'CONNOR:

7 Q. And that's my point. You didn't make the
8 call. If Bard told you to do something, you're
9 going to do it if you could do it?

10 A. Sure.

11 Q. You didn't ask any questions, you just do
12 it if you could?

13 A. If I was able to, sure.

14 (Exhibit 21 marked for identification.)

15 BY MR. O'CONNOR:

16 Q. Wheaton Franciscan was a big client,
17 weren't they?

18 A. I don't know how to say how big they are.
19 I don't know exactly how you're describing big.

20 Q. Were they an important client?

21 A. All my customers are important, so --

22 Q. Wheaton somebody you wanted to keep
23 happy?

24 A. All my customers were people that I
25 wanted to keep happy.

1 Q. How big is Wheaton?

2 A. In terms of what?

3 Q. In terms of numbers.

4 MR. BROWN: Object to the form.

5 THE WITNESS: I have no idea off the top
6 of my head.

7 BY MR. O'CONNOR:

8 Q. Did they bring you good numbers?

9 A. I don't know what the answer to that is.

10 Q. Well, we know that back in April 2010,
11 Bard wanted G2s -- Eclipse switched out for the G2,
12 and here now we're at February 17, 2011.

13 A. Okay.

14 Q. Not quite a year, but several months
15 after this e-mail came from Bret Baird; right?

16 A. Sure.

17 Q. And you have, I'm going to hazard a
18 guess, a relatively good customer who's still using
19 the G2.

20 A. Okay.

21 Q. Right?

22 A. Looks like it, yes.

23 Q. And you took this opportunity to tell
24 Mary Starr, the interventional radiology
25 coordinator at Wheaton, that she needs to be

1 switching out and using the Eclipse; right?

2 A. I don't know that I -- I was asked -- was
3 I asked that question, to switch out?

4 Q. "Mary, you want the Eclipse, here are the
5 product codes." See where I read that?

6 A. Sure. That doesn't sound like me --

7 Q. Those are your words. Pardon me?

8 A. That doesn't sound like me mandating her
9 to switch anything. Am I responding to a question?

10 Q. Well, look at it.

11 A. Yeah, she asked me if I should order the
12 Eclipses or the G2s.

13 Q. And what did you tell her?

14 A. You want to order the Eclipse 'cause the
15 G2s are being discontinued, right? So the
16 product's not going to be available anymore. So we
17 would want to get them over to the next iteration.
18 There's not going to be any product left.

19 Q. When had you ever told her, or anybody at
20 Wheaton before February 17, 2011, that Bard was
21 switching out -- switching the Eclipse for the G2?

22 A. I don't know. I mean, I would -- I don't
23 know when I would have tried, if I ever was able to
24 get to her before this. This may have been the
25 first opportunity I had to get to her. I don't

1 know.

2 Q. So the first opportunity you may have had
3 was not quite a year but several months after Bret
4 Baird sent that e-mail out?

5 A. Could have been.

6 Q. And still by this time you never asked
7 Bard hey, Bret, why are we switching these out?
8 Never made that phone call?

9 A. I didn't, no.

10 Q. Okay.

11 MR. BROWN: Object to the form.

12 BY MR. O'CONNOR:

13 Q. But by this time, you knew that this
14 hospital should be using the Eclipse?

15 A. Yeah, I mean at -- obviously that was our
16 new filter line. The G2s were going away, they
17 weren't going to have anymore. They didn't have
18 the option; they weren't going to be able to order
19 anymore G2s.

20 Q. And if the reason Bard was so intent on
21 switching out was because of known problems with
22 the G2, you just don't know?

23 MR. BROWN: Object to the form.

24 BY MR. O'CONNOR:

25 Q. You never asked?